

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Implementation of the Telecommunications
Act of 1996; Accounting Safeguards Under
the Telecommunications Act of 1996

CC Docket No. 96-150

Implementation of the Non-Accounting
Safeguards of Sections 271 and 272 of the
Communications Act of 1934, as amended

CC Docket No. 96-149

Application of GTE Corporation and Bell
Atlantic Corporation for Consent to
Transfer Control of Domestic and
International Sections 214 and 310
Authorizations and Application to Transfer
Control of a Submarine Cable Landing
License

CC Docket No. 98-184

VERIZON¹ EMERGENCY PETITION FOR WAIVER

Pursuant to section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, Verizon hereby requests an emergency waiver of the Commission's accounting and non-accounting safeguards implementing section 272 of the Act and the separate data affiliate requirements of the GTE/Bell Atlantic Merger Order² for activities related to the repair and restoration of facilities affected by the September 11, 2001 terrorist attacks.

¹ The Verizon telephone companies ("Verizon") are the affiliated local telephone companies of Verizon Communications Corp. These companies are listed in Attachment A.

² *Application of GTE and Bell Atlantic for Consent to Transfer Control*, 15 FCC Rcd 14032 (2000) ("Merger Order").

The September 11 attacks caused total destruction of Verizon's switching facilities in the World Trade Center as well as extensive damage to the neighboring central office at 140 West Street. The collapse of the World Trade Center buildings piled several stories of debris against the building and over the cable vaults, penetrated the building in many places, spread dust and grime over delicate electronic equipment, and submerged switches and cables under water. Hundreds of thousands of voice lines and data circuits were severely damaged or destroyed, including most of those serving the New York Stock Exchange. The devastation at Ground Zero was beyond anything in the company's previous experience in both scope and nature of the damage, which is still being assessed.

Reflecting the national priority that was placed on restoring the infrastructure of New York and bringing the financial markets back into operation, Verizon informed the Commission that it would devote all resources at its disposal to the repair and restoration of service as quickly as possible without regard to regulatory restrictions that might delay these efforts. Verizon drew personnel and resources from throughout the company in a 24 hour-a-day effort that is still far from over. While Verizon has been able to restore about three-quarters of the voice lines and 80 percent of the data circuits that go through the West Street office, 75,000 voice lines still remain out of service, and the company is working to restore or re-route another 1.5 million data circuits.

Throughout this crisis, Verizon has used all personnel and resources that could be of assistance in repairing its facilities. As a consequence, in some cases employees of Verizon's long distance and separate data affiliates have worked and continue to work on the local exchange company's equipment and the local exchange company's employees have worked on their affiliates' equipment. Verizon has used switching equipment, cables and other resources

from various sources, without waiting to negotiate arms-length contracts or to comply with web-posting requirements. This emergency all-hands effort necessarily will continue for some time because it is the only way to bring the network back quickly for both Verizon's customers and for other carriers with whom Verizon interconnects. Verizon has set up systems to capture the costs of these shared resources where feasible and, after the fact, Verizon will make a good faith effort to account for these costs and transactions to the extent possible under the circumstances. However, not all activities will be able to be recreated and documented.

Due to these emergency activities, Verizon has not been able to comply with the Commission's section 272 accounting and non-accounting safeguards and merger-related separate affiliate rules for activities related to the disaster in some instances and will not be able to do so for an indeterminate period while the emergency efforts to restore the network continue. Verizon requests a waiver of the Commission's rules implementing section 272 of the Act and the separate data affiliate requirements of the Merger Conditions for activities related to repair and restoration of facilities affected by the September 11 attacks.³ At this point, Verizon cannot determine when these activities will be far enough along to allow Verizon to return to normal compliance with the separate affiliate rules. Consequently, Verizon requests that the Commission grant an indefinite waiver conditioned upon the submission of a status report by Verizon in 90 days to determine how much longer the waiver should continue.

The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest. *See Northeast Cellular Telephone*

³ Because the separate data affiliate requirements were terminated on September 26, 2001, a waiver of these requirements is needed only through that date. *See Application of GTE and/Bell Atlantic for Consent to Transfer Control*, Order, CC Docket No. 98-184, DA 01-2203 (rel. Sep. 26, 2001).

Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990). Clearly, that is the case here. Verizon's strict compliance with the Commission's separate affiliate rules would stand in the way of restoring telephone service as quickly as possible. The impact of the terrorist attacks on the city of New York was unprecedented and required a maximum effort from all members of the community to heal the damage. Restoration of telephone service is critical to the health, safety and economic welfare of the city and of the country in general. Despite herculean efforts on the part of Verizon's employees, that process is still underway and will continue for some time before a semblance of normal operations can be reached. The need to bring all available resources to bear on this task constitutes "special circumstances" warranting a waiver of the separate affiliate rules during this emergency. *See Wait Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

Conclusion

For the foregoing reasons, the Commission should grant Verizon a waiver of compliance with the section 272 rules and the separate data affiliate conditions of the Merger Order for activities related to restoration of services affected by the September 11 attacks for an indefinite period, subject to the filing of a 90-day status report.

Respectfully submitted,

By: /S/

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THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.